

REMARKS/ARGUMENTS

Claims 18, 22, and 27-32 are pending in this application, all of which are independent. By this Amendment, claims 18, 22, 27, and 30-32 are amended.

The courtesies extended to Applicant's representative by Examiner Anya at the interview held November 17, 2008, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicant's record of the interview.

CLAIM OBJECTIONS

In section 2 on page 2, the Office Action objects to the claims, alleging minor informalities. Page 4 of the claims contains the line "Claims 13-26 (Cancelled)" while claims 18, 21, and 22 are, in fact, not cancelled. The status indicators in the current amendment have been modified to read "Claims 23-26 (Cancelled)." Accordingly, Applicant respectfully requests the withdrawal of this objection.

REJECTIONS UNDER 35 U.S.C. §101

In section 3 on pages 2 and 3, the Office Action rejects claims 18, 22, and 31 under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. The Office Action alleges ambiguity in the term "software-readable medium," expressing uncertainty as to whether this term connotes software or hardware. In response,

Applicant amends claims 18, 22, and 31 to instead recite “a computer-readable medium.” Accordingly, Applicant respectfully requests the withdrawal of this rejection.

REJECTIONS UNDER 35 U.S.C. §112

In section 4 on page 3, the Office Action rejects claim 18 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action alleges the term “the processor” as recited on line 8 of claim 18 lacks sufficient antecedent basis. Applicant hereby amends claim 18 to instead recite “the computer-readable medium” which finds antecedent basis in the preamble of claim 18. Accordingly, Applicant respectfully requests the withdrawal of this rejection.

REJECTIONS UNDER 35 U.S.C. §103

In sections 5-7 on pages 4 and 5, the Office Action rejects claims 18, 27, and 28 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Publication Number 2003/0037091 (“Nishimura”) in view of Derwent Acc. Number 2000-079595 (“Derwent”). Applicant respectfully traverses this rejection.

In rejecting claim 18, the Office Action cites Nishimura as allegedly disclosing “instructions for combining the at least one selected task with the first task to form a combined task and scheduling the combined task, in the event that at least one selected task is located.” The Office Action uses the same basis in rejecting claims 27 and 28. As discussed at the interview held November 17, 2008, Nishimura discloses the grouping of tasks, as opposed to the combination of tasks.

Paragraph [0110] of Nishimura states “. . . tasks attached to a task group are executed in order of priority within the task group” (emphasis added). The tasks in Nishimura, though grouped, remain discrete tasks which are executed separately rather than as a single, combined task. Because of this, Nishimura fails to provide the same advantages of the claimed subject matter, for example, the utilization of otherwise unused resources and the expedition of the overall process.

Nishimura, therefore, does not disclose “instructions for combining the at least one selected task with the first task to form a combined task and scheduling the combined task, in the event that at least one selected task is located.” Derwent fails to overcome this deficiency. Accordingly, Applicant respectfully submits that claims 18, 27, and 28 are allowable over the publications of record and therefore requests withdrawal of the rejection of claims 18, 27, and 28 under 35 U.S.C. § 103.

In sections 8-10 on pages 5-7, the Office Action rejects claims 30 and 32 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Publication Number

2002/0156669 (“Verhaegh”) in view of U.S. Patent Number 6,625,750 (“Duso”). Applicant respectfully traverses this rejection.

Claim 30 has been amended to further recite “instructions for rejecting the first task such that the first task is immediately eligible for retrieval, when the computing device does not have sufficient resources to execute the first task and that the first task is time sensitive.” Claim 32 has been amended to contain a similar recitation. This subject matter finds support in, for example, paragraph [0021] of the specification.

The recited subject matter is not merely a design choice, but instead offers significant benefits. By rejecting the first task when it is time sensitive and there are insufficient resources for its completion, the first task may be immediately reselected for scheduling. This ensures that time sensitive tasks are not delayed and an opportunity for their scheduling is not missed while other tasks are being scheduled.

The Office Action cites Verhaegh as allegedly disclosing “instructions for attempting to schedule a second task before attempting to schedule the first task, when the computing device does not have sufficient resources to execute the first task and that the first task is not time sensitive,” as disclosed in the newly amended claim 30. The paragraph cited as allegedly disclosing this feature, paragraph [0025], however, only discloses the reordering of already scheduled tasks when

certain constraints are violated. Verhaegh fails to disclose the logic used in such a reordering. More specifically, Verhaegh does not teach attempting to schedule a second task before retrying to schedule a non-time-sensitive task for which there are insufficient resources. Further, Verhaegh fails to teach the rejection of a time-sensitive task for which there are insufficient resources, such that the task is eligible for an immediate reattempt at scheduling.

The Office Action further cites Verhaegh as allegedly disclosing “determining whether the first task is time sensitive.” The Office Action points to Verhaegh’s disclosure of determining, for each task, a starting time and ending time based on constraints constructed using the given requirements for the task. As discussed at the interview held November 17, 2008, this determination is used to define the schedule, as shown in paragraph [0012]. Verhaegh does not appear to disclose the determination of whether a certain task must be executed in a timely manner or any action upon such a determination.

Verhaegh, therefore, does not disclose, “determining whether the first task is time sensitive,” “attempting to schedule a second task before attempting to schedule the first task, when the computing device does not have sufficient resources to execute the first task and that the first task is not time sensitive,” or “rejecting the first task such that the first task is immediately eligible for retrieval, when the computing device does not have sufficient resources to execute the first

task and that the first task is time sensitive.” Duso fails to remedy these deficiencies. Accordingly, Applicant respectfully submits that claims 30 and 32 are allowable over the publications of record and therefore requests withdrawal of the rejection of claims 30 and 32 under 35 U.S.C. § 103.

In sections 11 and 12 on pages 7 and 8, the Office Action rejects claim 31 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Number 6,789,067 (“Liebnow”) in view of U.S. Patent Number 7,203,943 (“Shaffer”). Applicant respectfully traverses this rejection.

The Office Action cites Liebenow as allegedly disclosing “instructions for combining the at least one selected task with the first task to form a combined task and scheduling the combined task . . .” The cited portion of the Liebenow specification reads, “The recipes are then merged by combining the task(s) of each recipe to provide a task list suitable for use in preparing food items, wherein the tasks are arranged chronologically. . .”

As discussed at the interview held November 17, 2008, Liebenow does not disclose the combining of tasks to form a single task, but rather the merging of multiple task *lists* to provide an efficient order in which to execute the tasks. As can be seen by the example of Columns 3 and 4 of Liebenow, the tasks themselves are not combined or changed in any way. Rather, the *ordering* of tasks is the only thing that is modified. Liebenow does not teach the combination of tasks into a

single task to be executed at one time. Each task must still be executed one at a time. Because of this, Liebenow fails to provide the same advantages of the claimed subject matter, for example, the utilization of otherwise unused resources.

Further, Liebenow is directed toward the field of electronic recipe managers. It is unlikely that a person of skill in the art would look upon the teachings of Liebenow as relevant to the pursuit of task scheduling within computing and communication systems.

Liebenow, therefore, does not disclose, "instructions for combining the at least one selected task with the first task to form a combined task and scheduling the combined task." Shaffer fails to remedy this deficiency. Accordingly, Applicant respectfully submits that claim is allowable over the publications of record and therefore requests withdrawal of the rejection of claim 31 under 35 U.S.C. § 103.

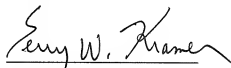
CONCLUSION

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.

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